

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NTCH-WA, INC.,

Plaintiff,

v.

ZTE CORP.,

Defendant.

NO: 12-CV-3110-TOR

ORDER DENYING DEFENDANT'S  
MOTION FOR RECONSIDERATION

BEFORE THE COURT is Defendant's Motion for Reconsideration (ECF No. 113). This matter was submitted for consideration without oral argument. The Court has reviewed the briefing and the record and files herein, and is fully informed.

DISCUSSION

Motions to reconsider may be reviewed under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993).

1 “Reconsideration is appropriate if the district court (1) is presented with newly  
2 discovered evidence, (2) committed clear error or the initial decision was  
3 manifestly unjust, or (3) if there is an intervening change in controlling law.” *Id.* at  
4 1263; *United Nat. Ins. Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th  
5 Cir. 2009). A motion to reconsider is properly denied when a litigant “present[s]  
6 no arguments in his motion for [reconsideration] that had not already been raised”  
7 in the underlying motion. *Taylor v. Knapp*, 871 F.2d 803, 805 (9th Cir. 1989).

8 Defendant asks the Court to reconsider its prior ruling that Plaintiff  
9 effectuated proper service of process in light of the Supreme Court’s recent  
10 decision in *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014). The Court has  
11 reviewed the *Bauman* decision and finds its holding inapposite to the issue of  
12 whether service of process was properly completed. *Bauman* is a personal  
13 jurisdiction case which addresses the limits of a court’s exercise of general  
14 jurisdiction over a foreign (*i.e.*, out-of-country) corporate defendant. As relevant  
15 to the instant motion, the case holds that general jurisdiction may not be predicated  
16 solely on the defendant’s contacts with the forum state through a subsidiary acting  
17 as the defendant’s “agent” in the forum. 134 S. Ct. at 758-60. General jurisdiction  
18 based solely on agency principles, *Bauman* explains, would “subject foreign  
19 corporations to general jurisdiction whenever they have an in-state subsidiary or  
20 affiliate, an outcome that would sweep beyond even the ‘sprawling view of general

1 jurisdiction” that the Supreme Court rejected in prior cases. *Id.* at 760 (quoting  
2 *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2856 (2011)).

3 Although *Bauman* rejects an agency analysis in the general jurisdiction  
4 context, it strongly suggests that agency principles remain relevant in the context  
5 of *specific* jurisdiction. Indeed, the case specifically notes that “a corporation can  
6 purposefully avail itself of a forum by *directing its agents or distributors to take*  
7 *action there.*” *Id.* at 759 n.13 (emphasis added) (citing *Asahi Metals Indus. Co.,*  
8 *Ltd. v. Superior Court of California*, 480 U.S. 102, 112 (1987), *Int’l Shoe Co. v.*  
9 *Washington*, 326 U.S. 310, 318 (1945), and *Goodyear*, 131 S. Ct. at 2855)). If  
10 specific jurisdiction can be established over a foreign corporation on an agency  
11 theory, it necessarily follows that service of process—which is a prerequisite to  
12 establishing personal jurisdiction—can be accomplished by serving a foreign  
13 defendant’s subsidiary acting as its agent in the forum state. That is precisely what  
14 Plaintiff did here. Accordingly, the motion for reconsideration of the Court’s  
15 Order at ECF No. 55 is denied.

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1 **IT IS HEREBY ORDERED:**

2 Defendant's Motion for Reconsideration (ECF No. 113) is **DENIED**.

3 The District Court Executive is hereby directed to enter this Order and  
4 provide copies to counsel.

5 **DATED** February 27, 2014.



  
THOMAS O. RICE  
United States District Judge